

PART 5 FUNDRAISING AND POLITICAL ACTIVITIES OF THE NATIONAL PARTIES AND ADMINISTRATIONS

Chapter 26: Telephone Solicitations on Federal Property

Documents produced to the Committee by both the DNC and the White House indicate that on a number of occasions the DNC requested the President to make telephone calls to solicit funds for the DNC. The Committee reviewed evidence, including testimony and documents relating to the circumstances and applicable law surrounding these calls. The Committee also investigated fundraising telephone calls made by the Vice President from his office in the White House. The Committee also investigated whether past Republican presidents, and other Republican officials, had made fundraising phone calls from government buildings.

Based on the evidence before the Committee, we make the following findings with respect to these fundraising calls:

FINDINGS

- (1) Telephone calls made on federal property to solicit contributions from persons neither on federal property or employed by the federal government have been made by elected officials from both parties and prior administrations.**
- (2) There was nothing illegal about the one solicitation telephone call known to the Committee made by the President.**
- (3) There was nothing illegal about the solicitation telephone calls made by the Vice President.**

PRESIDENTIAL TELEPHONE CALLS

At a news conference on March 7, 1997, President Clinton was asked whether he had ever made fundraising telephone calls while President, and he responded:

I can't say, over all the hundreds and hundreds and maybe thousands of phone calls I've made in the last four years, that I never said to anybody while I was talking to them, "Well, we need your help," or "I hope you'll help us." . . .

I simply can't say that I've never done it. But it's not what I like to do, and it wasn't a practice of mine. And once I remembered in particular I was asked to do it and I just never got around to doing it.

. . . I don't want to flat out say I never did something that I might in fact have

done just because I don't remember it.¹

Documents produced to this Committee by both the Democratic National Committee ("DNC") and the White House indicate that on a number of occasions the DNC requested that the President make telephone calls to solicit funds for the DNC.² Many deposition witnesses testified that they were aware of the President being asked to make calls.³ The only witness who testified that he believed the President had, in fact, made at least some calls was Harold Ickes, White House deputy chief of staff.

Ickes testified that he had asked the President to make fundraising telephone calls on several occasions after he checked with White House counsel who advised him that there was no legal barrier to making such calls.⁴ Ickes also testified that the President usually did not make fundraising calls, not because they were illegal or improper, but because he did not like making them. Ickes further testified that on one occasion, during 1994, the President made a few fundraising calls from the residential area of the White House.⁵

FBI agents detailed to the Committee were asked to interview people whose names appeared on a series of call lists submitted by the DNC to the White House and other documents.⁶ They were able to confirm that out of 55 people interviewed, only three received calls from the President and only one, businessman Richard Jenrette, was asked by the President to make a contribution.

Minority exhibit 2504M is a summary of the FBI's investigation (consisting of interviews) as of October 29, 1997 concerning the President's telephone calls. The exhibit illustrates the fact that the FBI contacted 55 individuals listed in various call lists, and 52 individuals stated that they did not receive a call from the President.⁷ Two individuals stated that they did receive calls from the President thanking them for contributions they had already pledged to the DNC.⁸ Jenrette was the only individual interviewed who stated that he received a call in which the President solicited a campaign contribution.

The Committee also examined the contributions made by the people whose names appeared on the telephone lists, including an October 18, 1994, memorandum to Harold Ickes from Terry McAuliffe, the then-Finance Chair of the DNC, that contained Ickes's handwriting.⁹ Six of the nine people circled by Ickes on the memo (including Jenrette) made a contribution to the DNC within one month of October 18, 1994.¹⁰ Moreover, Ickes's handwritten notations of money amounts correlate with the amounts ultimately contributed by only two of the listed potential contributors.¹¹ The FBI detailees interviewed five of these six contributors, and only Jenrette recalled receiving a solicitation from the President.¹²

In the final analysis, the evidence submitted to this Committee suggests that, as Ickes testified, on one occasion in 1994, the President made a few telephone calls to contributors, including Richard Jenrette. These calls were made on October 18, 1994, and, most likely, were made to some of the people listed in Exhibit 1653. Ickes's handwritten notations on this exhibit

may have been made while the President was making the calls. Other than this one series of calls, there is no evidence that the President made any fundraising calls from 1993 through 1996.

Richard Jenrette

As part of the Committee's investigation, Richard Jenrette was interviewed by FBI detailees. He stated that he did receive a fundraising call from the President.¹³ He was called as a hearing witness to testify about this call.¹⁴

Jenrette is a retired Wall Street investment banker who has been contributing to political parties and committees since the 1970s.¹⁵ According to Federal Election Commission ("FEC") records, he contributed to the DNC either personally or through his companies between \$30,000 and \$60,000 each year from 1993 to 1996.¹⁶ He has also contributed to the RNC and to Republican candidates including Senator Alphonse D'Amato of New York, Senator Lauch Faircloth of North Carolina, and former Massachusetts Governor and Senatorial candidate William Weld.¹⁷ Since 1991, FEC records show that he contributed approximately \$170,000 to the Democratic Party or committees and approximately \$40,000 to the Republican Party.¹⁸ Jenrette first contributed to President Clinton in August 1992.¹⁹ Since that time he has spoken to the President approximately six or seven times at fundraisers and other events, usually about the economy.²⁰

An AT&T telephone bill for the White House indicates that the call to Jenrette was made on the President's private residence line on October 18, 1994.²¹ The White House also produced records to the Committee that establishes that, at the time of the call to Jenrette, the President was in the residential portion of the White House.²² Jenrette testified that the call was placed by one of the President's secretaries. The White House secretary informed Jenrette's secretary that the President would call Jenrette back on his "private" line.²³

Following his conversation with the President, Jenrette sent a letter to the President confirming his contribution. In testimony before the Committee, Jenrette stated that the letter reflected his best recollection of the telephone call. The letter reads:

In response to your request, I wanted you to know that I am sending checks totaling \$50,000 to the Democratic National Committee. You said you wanted to raise \$2 million from 40 good friends -- by my Wall Street math, this comes out to \$50,000 that you requested from each. I hope this will be of assistance to the DNC in its final pre-election push.²⁴

Jenrette testified that his review of this letter had "triggered" his recollection of the call,²⁵ and said, "If I hadn't had that letter, I would have had trouble recalling anything."²⁶

Jenrette testified that he did not feel that the President had pressured him to make contributions that were out of the ordinary;²⁷ indeed, he stated that the President did not exert any

pressure.²⁸ The telephone records show that the call lasted 11 minutes and 18 seconds.²⁹ According to Jenrette, the fundraising part of the call was “fairly minimal” and was only a small part of the conversation.³⁰

The President did not specifically request that Jenrette’s contribution be directed to either hard money or soft money accounts, according to Jenrette.³¹ Subsequently, one \$10,000 check that made up Jenrette’s \$50,000 contribution was changed -- with Jenrette’s knowledge and approval -- from a soft money contribution to a hard money contribution.³² A DNC employee spoke to Joe Hillis, Jenrette’s assistant, to ask if \$10,000 could be directed to a hard money account. Jenrette agreed, because he was still within his annual \$25,000 limit.³³

While some Members of the Committee told Jenrette that his candid testimony had cast doubt on the President’s forthrightness,³⁴ Jenrette’s testimony is, in fact, entirely consistent with the President’s statements about his fundraising calls. The President has never denied that he may have made fundraising calls. In addition, the President’s private attorney has said that although the President doesn’t remember calling Jenrette, he has “no reason to question Mr. Jenrette’s recollection.”³⁵

Jenrette also testified that he received a fundraising phone call from Vice President Gore, as discussed below.

The Justice Department has long held the view that calls made from the White House residence are not covered by 18 U.S.C. § 607.³⁶ As such, there was nothing illegal about President Clinton’s call to Jenrette.

The evidence submitted to the Committee indicates that the President made a series of calls to contributors on October 18, 1994, in which he solicited at least one person for a contribution to the DNC. There was nothing illegal or improper about these calls: they were made from the residential portion of the White House; the President did not pressure or coerce the recipient of the call to contribute; and the President did not request hard money.

VICE PRESIDENTIAL TELEPHONE CALLS

In September 1995, DNC and White House officials, including the President and the Vice President, agreed that the DNC would undertake an extensive media project, paying for issue television advertisements to communicate the message of the administration and the party to the American people.³⁷ The President and Vice President agreed to spend more time fundraising for the DNC in order to generate funds for the media project.³⁸ Shortly thereafter, DNC officials began formulating fundraising plans to raise money for a “media fund” that included fundraising telephone calls by the President and the Vice President.³⁹ During the Committee’s investigation, numerous witnesses were asked about the proposed fundraising calls. Several witnesses had knowledge of the Vice President making phone calls to assist with fundraising for the media fund.

Vice President Gore personally acknowledged at a press conference in March 1997 that he made such calls:

I participated in meetings of our top campaign advisors where it became clear that in order to achieve the President's goals of getting a balanced budget, passing these measures to protect Medicare and Medicaid and education and the environment and so forth, that the DNC needed a larger budget to put advertisements on television. And I volunteered to raise -- to help in the effort to raise money for the Democratic National Committee.⁴⁰

The people called by the Vice President were suggested by DNC fundraisers who prepared 190 call sheets identifying 161 potential contributors. The Vice President used the DNC call sheets to make fundraising-related calls from his office of the White House to 61 individuals on 11 occasions between November 28, 1995, and May 2, 1996:

<u>Date</u>	<u>Time of call/s</u>	<u>Number of individuals Called</u>
Nov. 28, 1995 ⁴¹	Unavailable	1
Dec. 1, 1995 ⁴²	3:00-3:45 pm	7
Dec. 11, 1995 ⁴³	9:00-9:45 am	8
Dec. 18, 1995 ⁴⁴	1:30-2:30 pm 5:00-6:00 pm	7
Feb. 2, 1996 ⁴⁵	2:30-3:00 pm	1
Feb. 5, 1996 ⁴⁶	12:30-1:00 pm 3:00-4:00 pm 4:00-5:00 pm	13
Feb. 6, 1996 ⁴⁷	11:30 am-12:00 pm	2
Feb. 9, 1996 ⁴⁸	2:50-3:40 pm	2
March 13, 1996 ⁴⁹	Unavailable	6
April 26, 1996 ⁵⁰	12:30-1:00 pm 3:30-4:00 pm	11
May 2, 1996 ⁵¹	11:45 am-12:00 pm	3

These calls were initially placed by staff who were instructed to charge the calls to a Democratic Party credit card, not to the federal government.⁵² Once the calls were placed, the Vice President would speak to the potential contributor. According to Federal Election Commission records, 20 of the 61 individuals called by the Vice President contributed to the DNC within 30 days of receiving a phone call from him.⁵³ These contributions totaled \$757,500.

The documentary and testimonial evidence submitted to the Committee demonstrates that during the period that the Vice President was making fundraising phone calls, the DNC was expressly focused on raising soft money for the media fund. Moreover, the documents submitted to the Vice President indicate that he knew that the DNC needed soft, not hard, money, for the media fund and the evidence supports the conclusion that he intended to raise soft money when he was making the calls. All telephone solicitations made by the Vice President were directed to private individuals who were not on federal property when they received the calls. According to the call sheets, each of the 61 individuals contacted by the Vice President was a private citizen and the telephone numbers on the call sheets were for their private offices or homes. Finally, documents submitted to the Committee indicate that the thank-you notes sent by the Vice President were prepared by the DNC, on DNC stationery, and were returned to the DNC for mailing after the Vice President signed them. These circumstances demonstrate that the Vice President's calls did not run afoul of the Pendleton Act's prohibitions on fundraising activity on federal property as explained in Chapter 24.

Purpose of the Phone Calls

The Committee examined documents produced by the DNC and the White House to determine whether the Vice President knew -- or should have known -- that any of the money he helped to raise was being deposited in DNC hard money accounts. Some Members of the Committee have contended that the Vice President knew or should have known, pointing to a February 21, 1996, memo from Bradley Marshall, the DNC's chief financial officer, that was attached to a February 22 memo from Harold Ickes to the President and Vice President. The Marshall memo briefly summarized the law in a short paragraph near the end of the lengthy document. He wrote:

Federal money is the first \$20,000 given by an individual (\$40,000 from a married couple). Any amount over this \$20,000 from an individual is considered Non-Federal Individual.⁵⁴

Marshall has confirmed that this paragraph was intended to be a brief summary of the law and not a description of DNC policies or practices relating to depositing contributions into the various DNC accounts. In an affidavit to the Committee, he stated:

This paragraph was a shorthand description by me of federal contribution limits to

national political parties and the possible sources of federal and non-federal funds. That's all it was, period. To put it another way, I did not intend this memorandum to serve as an explanation of or reference to the DNC's policies and procedures with regard to the deposit of portions of major donor contributions to the federal or "hard money" accounts.⁵⁵

The primary message of the Marshall memo and the other documents included in the February 22 package is to alert Ickes and others to the DNC's need for "soft" (nonfederal) money to pay for issue ads. The memo states that the average 1996 media buys were paid for with a mix of federal and non-federal dollars (34 percent federal, 31 percent non-federal corporate, and 35 percent non-federal individual), but that the DNC had \$675,000 in federal money, \$100,000 in non-federal corporate money, and \$0 in non-federal individual money. Accordingly, the DNC could not make additional media buys because it had relatively little non-federal corporate money and no non-federal individual money in its accounts.

On February 22, 1996, Ickes sent Marshall's memo to the President and Vice President with a short cover memo restating Marshall's concern that the DNC did not have enough non-federal soft money in its accounts and warning that, "until the amounts of non federal individual [money] is replenished, the DNC cannot buy media time."⁵⁶ Ickes did not mention Marshall's simplified definition of federal and non-federal monies in his cover memorandum.

When asked about his February 22 memorandum, Ickes testified to the Committee that the purpose of the memo "was alerting the president and the Vice president and others that we were, in fact, short of soft money"⁵⁷ Joseph Sandler, general counsel of the DNC, also testified that he understood the primary purpose of the memo was to alert the President and Vice President of the urgent need for non-federal soft money. Sandler testified that it "is a memo clearly from Harold [Ickes] addressed to the president and vice president that is saying until the amounts of non-Federal [money] is replenished we are out of business on the generic media program."⁵⁸

It is noteworthy that the February 22 memo was written three months after the Vice President began making fundraising calls in late 1995. Given that the memo had not been written when the phone calls began, it could not possibly be probative of the Vice President's state of mind at the time he started making the calls. Uncontroverted evidence indicates that, at the time the calls started and throughout the period of time they were being made, the information given to the Vice President was that the DNC needed to raise soft money, not hard money, to fund its media efforts.

Even prior to the first discussion of the Vice President making fundraising calls, DNC and White House documents relating to the DNC budget clearly indicate that the DNC needed soft money. An October 23, 1995 memorandum to Harold Ickes from Don Fowler, the National Chairman of the DNC, Marvin Rosen, the Finance Chair of the DNC, and Richard Sullivan, the Finance Director of the DNC regarding "1995 DNC Sources of Funds for DNC Operating Budget and Media Fund" states that the DNC intended to raise \$3,600,000 non-federal soft

money by the end of the year to meet its goal of raising \$6,600,000 for the DNC's issue-oriented media campaign. This memorandum explains that the plan was to raise the soft money needed for the media campaign and to borrow the federal hard money needed to pay for the media efforts.⁵⁹ Accordingly, the budget summary attached to the October 23 memorandum indicates that the DNC needed to raise non-federal money, not federal money, for the DNC Media Fund. The budget's bottom line states:

<u>TOTAL TO BE RAISED FOR MEDIA FUND</u>	3,600,000
<u>FEDERAL</u>	(0)
<u>NON-FEDERAL</u>	(3,600,000) ⁶⁰

A November 9, 1995 memorandum to DNC Chairman Christopher Dodd and DNC Chairman Fowler from Harold Ickes regarding the DNC 1995 Budget Analysis reiterates that the DNC media fundraising needs were exclusively for soft money.⁶¹ This memo and the attached budgets show that all of the money to be raised for the DNC Media Fund was non-federal soft money.⁶²

A November 20, 1995, Ickes memo to the President and the Vice President again informed them that the DNC needed to raise \$3,600,000 soft money for the media campaign.⁶³

It was in the context of the well-documented need to raise soft money that the Vice President was asked to make fundraising calls. To reach the ambitious fundraising goals set for the television advertising campaign, the DNC proposed in a November 20, 1995 memo to Ickes that the President and Vice President make fundraising phone calls.⁶⁴ Fowler, Rosen, Scott Pastrick, the Treasurer of the DNC, and Sullivan recommended to Ickes that the President make 18 to 20 calls and that the Vice President make ten calls to raise a total of \$1,200,000 "to be applied to paid television."⁶⁵ Sullivan confirmed in his June 1997 deposition that the reason. Fowler, Rosen, Pastrick and Sullivan made this recommendation was to "fund these media buys."⁶⁶

The week after the phone calls were proposed by the DNC leadership in November 1995, Ickes confirmed that all of the money to be raised for the DNC media fund was non-federal soft money. In a November 28, 1995, memorandum to the President and the Vice President, Ickes described his meeting with Marvin Rosen, Scott Pastrick, Richard Sullivan, Terry McAuliffe, Laura Hartigan (all DNC officials), and Karen Hancox and Doug Sosnik, White House Political Director, regarding DNC fundraising efforts for the media fund.⁶⁷ Ickes reported in this memorandum that Rosen believed \$1.2 million could be raised only if the President and Vice President made telephone calls to solicit funds for the DNC's media fund. Ickes attached budget projections that show all of the money to be raised for the media fund was non-federal soft money.⁶⁸ Similarly, a December 20, 1995 Ickes memo to the President and the Vice President again confirmed that all of the money to be raised for the DNC's media fund was nonfederal soft money.⁶⁹

Accordingly, the evidence clearly demonstrates that the DNC needed to raise non-federal soft money beginning in October 1995. To meet this urgent need, the DNC asked the President and Vice President to make fundraising phone calls starting in November 1995. The DNC's need for non-federal soft money to fund its media campaign continued beyond February 1996, throughout the period of time in which the Vice President made fundraising-related phone calls.

The last fundraising calls by the Vice President were made on May 2, 1996. Through this date, the evidence outlined above demonstrates that the DNC was in dire need of non-federal soft money to fund its media campaign. Later in the campaign, in approximately June 1996, after the Vice President stopped making fundraising calls, the DNC began to suffer a shortfall of federal ("hard") money. In June 1996, Ickes informed the President and the Vice President that the DNC was beginning to have a federal hard money short fall. In a June 3, 1996 memo to the President and the Vice President from Ickes regarding "DNC budget/fundraising," Ickes reported that a lack of federal hard money was "beginning to present a very serious problem."⁷⁰ On the second page of his memo, Ickes concluded, "Thus, the remainder of the fundraising efforts between now and the end of October will have to focus very much on increasing the amount of federal dollars raised Richard Sullivan is preparing a plan to specifically address this problem which will be ready on 3 June."⁷¹ During this period, when hard money became the focus of the DNC's fundraising efforts, there is no evidence that the Vice President made any fundraising phone calls.

Raising Soft Money

The fact that the Vice President was asked on one occasion to make 28 to 30 telephone calls with a goal of raising \$1,200,000, or \$40,000 to \$43,000 per person -- more than twice the federal hard money limit of \$20,000 per person -- further confirms that he believed that he was raising soft money. Testimony by Peter Knight, who was present when the Vice President made approximately 30 fundraising calls in 1995 and 1996, ⁷² supports this conclusion. Knight stated:

Now, if you refer back to the memorandum that Harold Ickes sent to the president and vice president, you can see that what is being requested is funds to purchase media. And the very last line of this says: "Thus, until amounts of non-federal individual is replenished, the DNC cannot buy media time." What he's saying is that what you need to do is make soft money calls to individuals, i.e., big checks to individuals.

So if you put this together with the media, it was always understood, and I understood at the time, that the media calls were soft money calls.

Now, I don't think that there is any reason to necessarily draw that distinction, because the phone calls I assumed were legal. However, there would be two reasons why they would be

considered as soft money in my mind and in helping him to think it through. One was, as I had indicated, that when you write a check, one check, and it is over \$20,000, you are writing a soft money check; that had always been my understanding of what was occurring. And number two, although I did not ever see this memo, I was generally aware that what was needed was to raise money for media, and media was very heavily oriented toward non-Federal soft money. [emphasis added]⁷³

The only recipient of a call by the Vice President who testified at a hearing of this Committee also confirmed that the Vice President asked for a soft money contribution in the call. Richard Jenrette, who received a call from Vice President Gore in February 1996, testified that the Vice President was soliciting non-federal soft money for the DNC's issue-oriented media campaign.⁷⁴ Jenrette testified that his call with the Vice President was very brief and that he recalls the Vice President told him he wanted to "get an early start in getting some of the issues out."⁷⁵

Jenrette confirmed that the Vice President was raising non-federal soft money for the DNC's media fund in a letter written to Donald Fowler on February 20, 1996.⁷⁶ Jenrette wrote:

Vice President Al Gore called me last week and asked if I would help in assembling funds totaling \$25,000 for the Democratic National Committee's media fund campaign. I told him I would be glad to do what I could and therefore I am enclosing the following checks which have been made payable to the "DNC Non-Federal Account."⁷⁷

Some of the call sheets themselves, supplied by the DNC to the Vice President, request the Vice President to raise money for the media fund.⁷⁸

The evidence, from Jenrette's recollection of his telephone conversation with the Vice President and his letter to Fowler, and also the call sheets, illustrates that the Vice President was soliciting non-federal soft money for the DNC's media fund. Jenrette's testimony to the Committee and his letter add to the great weight of evidence that supports the reasonable conclusion that the Vice President was asked to, and did, solicit non-federal soft money from November 1995 to May 1996 to fund the DNC's issue-oriented advertising campaign.

DNC Splitting Contributions Between Hard and Soft Money Accounts

This Committee discovered that the DNC deposited a portion of the money contributed by some individuals who received a call from the Vice President into the DNC's federal hard money account. The evidence indicates that neither the Vice President, nor anyone else at the White House, knew about the deposits of a portion of some contributions into a hard money account.

According to FEC records, 20 individuals called by the Vice President made contributions to the DNC within 30 days of receiving the phone call as noted above.⁷⁹ The DNC received \$737,750 from these 20 individuals and deposited \$605,750 into its non-federal soft money account. The DNC deposited \$132,000 donated by eight of the 20 individuals into its federal hard money account.⁸⁰

Joseph Sandler, general counsel of the DNC, confirmed that the Vice President was raising non-federal soft money but that the DNC, without the Vice President's knowledge, deposited some of the money donated by individuals called by the Vice President in its federal hard money account. Sandler stated to the Committee:

[A]ll the materials that we have seen clearly indicate that the vice president was soliciting non-Federal money. And that's true even though, because of internal DNC procedures of which the vice president would have no reason to be aware, the DNC - after the fact and without the vice president's knowledge - deposited a small percentage of a portion of those contributions that he had solicited into our Federal account.⁸¹

Peter Knight, who as noted above, was present when the Vice President made several of the calls, confirmed that neither he nor the Vice President was aware that the DNC might allocate some of the money he raised as federal hard money.

Q: And to your knowledge, did the vice president have any knowledge of the fact that the DNC was splitting off money without consulting with the donors?

A: No.⁸²

Furthermore, Knight explained that in his experience, whenever a donor makes a contribution to the DNC above \$20,000 it is "automatically" non-federal soft money.⁸³ He explained that a contributor would have to affirmatively state that they were making a federal hard-money donation before the DNC could properly deposit the funds in its federal money account. Knight testified:

In my experience, you have to have a conversation with the contributor to make the switch. If you have a check that says "\$100,000" on it, written, that to me is a soft money check by definition -- in my definition -- and that if you for some reason want to take \$20,000, then it was always my understanding that a conversation had to be had with the contributor to redo it, which is consistent with what [Bradley Marshall is] saying here -- "Federal money is the first \$20,000 by an individual" -- well, the first \$20,000 that one gives is, if it's designated as Federal, as hard. But you know, I -- what was different about this account that I learned later was that you would designate it without any -- consultation with the donor.⁸⁴

Sandler and Knight confirmed that the Vice President was not aware that the DNC deposited some of the non-federal soft money he raised into its federal hard money account. No evidence has been presented to the Committee that indicates that the Vice President knew or should have known that the DNC deposited some of the funds he solicited into its federal hard money accounts. Clearly, however, officials at the DNC should not have unilaterally split contributions between federal and non-federal accounts.

Applicability of the Pendleton Act

As discussed in Chapter 24, the Pendleton Act forbids anyone to solicit a federal (hard-money) contribution on federal property. The law has been interpreted to mean that the person solicited must not be on federal property when the solicitation occurs. The Committee received no evidence -- whether documents, sworn testimony or reports of interviews by FBI detailees -- that shows or suggests in any way that any individuals called by the Vice President were on federal property when they were solicited.

In his March 3, 1997, press conference, the Vice President confirmed that he did not solicit a donation from anyone who was on federal property at the time of the solicitation. The Vice President stated that he “never solicited a contribution from any federal employee, nor would I. Nor did I ever ask for a campaign contribution from anyone who was in a government office or on federal property.”⁸⁵

The great weight of the evidence reviewed by this Committee, clearly shows that the Vice President did not violate the Pendleton Act because he did not solicit federal hard money and the individuals he called were not on federal property when they received his calls.

The Contributors

A review was undertaken of the 190 call sheets prepared for the 169 individuals identified by the DNC for the Vice President to call. Each call sheet included: the person’s name, title, company, the spouse’s name, addresses, telephone numbers, contributor history, and the reason for the Vice President to call, and personal notes such as noting that one couple had their first child about 8 months ago.⁸⁶

The review found that most of the people on the call sheets had previously contributed money to the DNC or had indicated an intent to make a large contribution to the DNC. Of the 190 DNC call sheets prepared for the Vice President, 134 included contributor history information and 43 others indicated that the person intended to make a large contribution to the DNC.⁸⁷ Only 13 call sheets did not include any contributor history or any information regarding the individual’s intent to contribute.⁸⁸ This information indicates that 93 percent of the persons contacted had contributed to the DNC in the past or had expressed an intent to contribute to the DNC in the future.

These figures indicate that the Vice President was not being asked to “strong-arm” individuals who were not inclined to contribute to the DNC. And, in fact, the Committee found no evidence that anyone called by the Vice President felt pressured to contribute.

Payment for the Phone Calls

Vice President Gore was aware that any fundraising calls he made from his office at the White House should be paid for by the DNC. The Vice President and another person, usually Peter Knight, sat together in a separate office from the staff person who placed the calls to individuals listed on the DNC call sheets. Heather Marabeti, executive assistant to the Vice President, explained that a staff person who sat in the outer office of the Vice President’s office at the White House, placed the calls.⁸⁹ David Strauss, the Vice President’s Deputy Chief of Staff, was present on one occasion when the Vice President made fundraising-related calls in late 1995, and he confirmed that this was how the calls were made.⁹⁰ The staff people who placed the fundraising-related calls were instructed to use a credit card to pay for them. Marabeti, one of the staff people who placed calls for the Vice President testified, “We were instructed to use the credit card.”⁹¹ She explained that it was the staff’s “intent” to use the credit card each time they placed a fundraising-related phone call for the Vice President.⁹²

In 1995, the Vice President discussed with his staff the use of the credit card to pay for the cost of the fundraising calls. Marabeti testified, “I remember that he [the Vice President] asked me how the phone calls were being placed, whether or not a credit card was being used, and I told him that a credit card was being used.”⁹³

In his March 3, 1997, press conference, the Vice President confirmed that he knew the staff was supposed to use a credit card to pay for the costs associated with the calls. The Vice President said, “On a few occasions I made some telephone calls from my office in the White House, using a DNC credit card.”⁹⁴ Shortly after the White House discovered that some of the calls were not paid for with the credit card, the DNC reimbursed the U.S. Treasury \$24.20 for the cost of those calls.

Payment for the Thank-You Notes

The White House and the DNC produced copies of thank-you letters signed by the Vice President and sent to individuals who had made commitments to donate to the DNC during telephone conversations with the Vice President from late 1995 to May 1996.⁹⁵ All of the thank-you notes were printed on DNC letterhead with the disclaimer “Paid for by the Democratic National Committee” prominently displayed on the bottom of the page. David Strauss, the Vice President’s Deputy Chief of Staff, testified that the thank-you notes were prepared at the DNC, by DNC employees, on stationery paid for by the DNC.⁹⁶

Heather Marabeti confirmed that the DNC stationery was not used at the Vice President’s White House office. She testified that DNC stationery was not even kept in the

official office.⁹⁷ She testified that the notes were sent to Gore for his signature and then returned to the DNC for mailing.⁹⁸

No Other Costs to the Government

The Vice President, his staff, and the DNC attempted to ensure that the entire cost of the calls made by the Vice President for the DNC were paid for by the DNC. The staff person who placed the phone calls for the Vice President was instructed to use a credit card to pay for the calls. The thank-you letters signed by the Vice President were prepared on DNC stationery, at the DNC and mailed by the DNC. Because of these careful efforts, the U.S. Government did not incur any additional costs resulting from the fundraising-related calls made by the Vice President in 1995 and 1996.

REPUBLICAN PHONE CALLS

President Clinton was not the first president asked by his party to make fundraising calls. The evidence before the Committee establishes that, from 1982-88, President Reagan was asked to make fundraising calls to and from federal property. Unlike the calls made by Vice President Gore, many of these calls were designed specifically to raise hard money.

- O May 17, 1988: President Reagan was asked to make a call from the White House to House Minority Leader Bob Michel (R-Ill.) which was to be broadcast to over 275 attendees at an event designed to raise hard money for Michel's campaign.⁹⁹
- O September 28, 1986: President Reagan was asked to make a call from Camp David to Rep. John Rowland (R-Conn.) which was to be broadcast to 600 attendees at an event designed to raise hard money for Rowland's campaign.¹⁰⁰
- O September 7, 1982: President Reagan was asked to call a Republican Eagles event, which was held on federal property. Reagan was to tell the Eagles, "Let me say to you Eagles how important your contributions are to the Republican Party. . . . We are so appreciative. You are pillars of the party."¹⁰¹
- O March 2, 1981: President Reagan was requested to call Amway President Richard DeVos from the White House and to request DeVos to recruit 335 new Eagles members, which would raise \$3,350,000 for the RNC.¹⁰²

Congressman Newt Gingrich requested that President Reagan make at least one of these calls. A memorandum in connection with the Rowland fundraiser stated: "At the request of Congressman Newt Gingrich and the NRCC, it was agreed to try, as an 'experiment,' a presidential phone call to fundraisers for selected Congressman and challengers in their districts." These calls were designed to raise hard money.¹⁰³

President Reagan's White House Counsel's office approved his fundraising calls. In a May 1988 memorandum on the legality of President Reagan's call to the Michel fundraiser, which was designed to raise hard money, Associate White House Counsel Robert Kruger wrote:

Counsel's office has reviewed the attached scheduling proposal and has no objection to it from a legal perspective. Incremental costs associated with the call, if any, should be billed to the appropriate RNC account.¹⁰⁴

The Minority attempted to review records related to President Bush to determine if he, too, made fundraising calls while President, but Chairman Thompson did not concur in the request to the Bush Library, and the Library did not permit a search of President Bush's records.

The evidence presented to the Committee indicating that most of the people on Vice President Gore's call sheets had previously contributed money to the DNC or had indicated an intent to make a large contribution to the DNC contrasts with evidence uncovered by this Committee relating to phone calls Speaker Newt Gingrich was asked to make to persons who were not inclined to contribute to the RNC. The RNC produced documents indicating that Speaker Gingrich was asked in 1996 to solicit contributions from several corporations whose executives had expressly indicated that they did not want to contribute corporate funds to the host committee for the Republican National Convention.

In a May 23, 1996, memorandum from Fred Bush, finance chairman for the RNC Convention's host committee, to Gingrich aide Joseph Gaylord, regarding "Phone calls for Speaker Gingrich," Bush requested that Gingrich call the chief executive officers of six companies and solicit \$250,000 to help pay for the convention.¹⁰⁵ The comments included on the call sheet notes that three of the six companies -- Boeing, Coca Cola and Hewlett Packard -- had recently expressed an intent not to donate money to help pay for the convention.¹⁰⁶ The RNC documents strongly suggest that the Republican Party intended to use the Speaker to convince these corporations to make contributions that they otherwise would not make.

CONCLUSION

The practice of politicians making fundraising calls from federal property is by no means rare. For example, Senator Phil Gramm said of fundraising calls: "I do it wherever I am. . . I can use a credit card. . . As long as I pay for the calls, I can make calls wherever I want to call."¹⁰⁷ Dick Morris, who has been a political consultant for both Republicans and Democrats, acknowledged that this practice is widespread: "Would you like me to embarrass 15 of my former clients by telling you when I sat in their office(s) and they made fund-raising phone calls?"¹⁰⁸

1. New York Times, 7/24/97.
2. Memorandum from Don Fowler, Marvin Rosen, Scott Pastrick, and Richard Sullivan to Harold Ickes, 11/20/95, EOP 027285; Memorandum from Harold Ickes to the President and the Vice President, 11/28/95, SCGA 00342-43.
3. Richard Sullivan deposition, 6/4/97, pp. 181-97; Marvin Rosen deposition, 5/19/97, pp. 107-29; Donald Fowler deposition, 5/21/97, pp. 289-304.
4. Harold Ickes, 10/8/97 Hrg. pp. 210, 215-17.
5. Harold Ickes, 10/8/97 Hrg. pp. 124-25, 208-19.
6. These documents were Exhibit 1653: Memorandum from Harold Ickes to Terence McAuliffe and Laura Hartigan, 10/18/94, EOP 036557-64; Memorandum from Harold Ickes to Terence McAuliffe and Laura Hartigan, 10/21/94, EOP 035494-97; list of names, EOP 036569-74; and DNC Finance Call Sheets.
7. Exhibit 2504M: Summary of Senate FBI Agent's Investigation into the President's Phone Calls; see Minority counsel, 10/29/97 Hrg. Pp. 22-23, 35-36.
8. Exhibit 2504M: Summary of Senate FBI Agent's Investigation into the President's Phone Calls. Because solicitation means asking for something, such a call is outside the plain meaning of "soliciting] or receiving] any contribution within the meaning of . . . the Federal Election Campaign Act" and therefore not prohibited by section 607. In re William Jefferson Clinton, Notification of the Court Pursuant to 28 U.S.C. § 592(b) of Results of Preliminary Investigation, at 9-10 (D.C. Cir. Dec. 2, 1997) (citing Wisconsin Dep't of Revenue v. William Wrigley, Jr., Co., 505 U.S. 214, 223 (1992)).
9. Exhibit 1653: Memorandum from Terence McAuliffe and Laura Hartigan to Harold Ickes, 10/18/94, EOP 036557-64.
10. Exhibit 1656: Statement of Jerome Campana, 10/28/97. Exhibit 1656 was prepared by Committee Investigator Jerry Campana as an analysis of certain interviews of potential contributors. This exhibit was not provided to the Minority until 9:15 a.m. on the morning of the hearing. Minority counsel, 10/29/97 Hrg. P. 35.
11. Exhibit 1656: Statement of Jerome Campana, 10/28/97.
12. Exhibit 1656: Statement of Jerome Campana, 10/28/97. Some Members of the Committee have questioned the credibility of the other five contributors but without affording them the opportunity to testify at a hearing. It is possible that these people received phone calls but do not recall the calls or that a call was placed but the contributor was not reached. It is also possible that Mr. Ickes's handwritten notations came from a source other than the President calling the

contributor. For example, Mr. Ickes may have been told some of these contributors had already contributed or pledged a contribution and thus there was no reason to call.

13. Exhibit 1652: FBI Interview of Richard Jenrette.

14. Jenrette was not deposed by the Committee. Early in the week of October 20, the Majority Chief Counsel spoke to Jenrette. In contravention of the Committee's protocols, the Minority Staff was not notified in advance of the Majority Chief Counsel's intention to speak with a witness. Jenrette then retained an attorney, and the attorney left a message for the Majority Chief Counsel indicating that he had been retained. On October 29, the Majority Chief Counsel called Jenrette directly and they had a half hour conversation about the issues to which he would testify. The Majority Chief Counsel also met with Jenrette later that day. Again, Minority Staff was neither informed in advance of these discussions nor allowed to participate. Staff interview with Jenrette's attorney, as noted in memorandum of Minority Counsel.

15. Richard Jenrette, 10/29/97 Hrg. Pp. 16-17.

16. Richard Jenrette, 10/29/97 Hrg. P. 17; FEC records.

17. Jenrette personally or through one of his companies contributed \$1,000 to D'Amato in 1995, \$1,000 to Faircloth in 1993, \$1,000 to Faircloth in 1995, and \$1,000 to Weld in 1996. FEC records.

18. Richard Jenrette, 10/29/97 Hrg. Pp. 17-18; FEC records.

19. Richard Jenrette, 10/29/97 Hrg. P. 18.

20. Richard Jenrette, 10/29/97 Hrg. Pp. 18, 19.

21. Exhibit 2500M: AT&T billing records for the White House for 10/18/94; see Minority counsel, 10/29/97 Hrg. P. 23. Exhibit 2500M was redacted to remove the President's private phone number, due to obvious privacy concerns. Senator Glenn, 10/29/97 Hrg. P. 60.

22. Exhibit 2500M: AT&T billing records for the White House for 10/18/94.

23. Richard Jenrette, 10/29/97 Hrg. Pp. 3-4, 23; Exhibit 1652: FBI Interview of Richard Jenrette.

24. Exhibit 1652: Letter from Richard Jenrette to President Clinton, 10/24/94; Richard Jenrette, 10/29/97 Hrg. P. 3. The Majority questioned why the White House did not produce this document to the Committee. Richard Jenrette, 10/29/97 Hrg. Pp. 4-5. They introduced phone records produced by the White House on October 27 reflecting the call to Jenrette (and others), Exhibit 1657, and pointed to this as an example of the White House's late production of records. Richard Jenrette, 10/29/97 Hrg. P. 5. The White House did, however, produce in June 1997 a document identifying Jenrette as a potential contributor. Exhibit 1653: Memorandum from Ickes to McAuliffe and Hartigan, 10/18/94, EOP 036557-64; see Richard Jenrette, 10/29/97 Hrg. Pp.

19-20, 38. The White House has not been able to locate a copy of Exhibit 1652 in the White House's files, Newsweek, 10/27/97, and does not believe that one exists.

25. Richard Jenrette, 10/29/97 Hrg. P. 68.

26. Richard Jenrette, 10/29/97 Hrg. P. 3.

27. Richard Jenrette, 10/29/97 Hrg. P. 24.

28. Richard Jenrette, 10/29/97 Hrg. P. 24; see also Richard Jenrette, 10/29/97 Hrg. P. 30. Jenrette was asked:

Senator Torricelli. . . . Mr. Jenrette, you do not appear to me, even though we do not know each other, to be a man who is easily intimidated. If the President of the United States had called and asked you for a contribution, and you did not believe he was a good President, you did not want to support his campaign, you did not otherwise want to be involved, would you have hesitated to tell him, No, I will not contribute to you?

Mr. Jenrette. I'd say sorry.

Senator Torricelli. You would not have contributed to him?

Mr. Jenrette. No.

Senator Torricelli. In any way based on the business of your firm, activities of the Federal Government, did you find something inappropriate about the timing, the conduct of the phone call, in any way that would have compromised the integrity of the firm or yourself or the President in any ongoing business that was being conducted at that time?

Mr. Jenrette. No.

Senator Torricelli. All right. So there was nothing intimidating and there was nothing inappropriate.

Richard Jenrette, 10/29/97 Hrg. Pp. 55-56.

29. Exhibit 2500M: AT&T billing records for the White House for 10/18/94.

30. Richard Jenrette, 10/29/97 Hrg. Pp. 42, 43.

31. Richard Jenrette, 10/29/97 Hrg. Pp. 24-25, 57-58.

32. Exhibit 1655: Contribution checks, p. 3. The \$50,000 was contributed in five separate checks. Exhibit 1655: Contribution checks.
33. Richard Jenrette, 10/29/97 Hrg. P. 51.
34. Senator Nickles, 10/29/97 Hrg. Pp. 47-48; Chairman Thompson, 10/29/97 Hrg. Pp. 63-65; Senator Smith, 10/29/97 Hrg. P. 66.
35. Newsweek, 10/27/97.
36. See Memorandum Opinion for the Assistant Attorney General, Criminal Division, from Larry A. Hammond, Acting Assistant Attorney General, Office of Legal Counsel, 3 Op. O.L.C. 31 (1979) (hereinafter “OLC Opinion”) (the discrete residential portion of the White House is not a “room or building occupied in the discharge of official duties” within the meaning of section 607); see also Letter from Janet Reno, Attorney General of the United States, to Henry J. Hyde, Chairman, House Judiciary Committee, in accordance with 28 U.S.C. § 592(g)(2) at 5 (Oct. 3, 1997) (“Section 607 does not apply to events occurring within the residential areas of the White House.”).
37. Donald Fowler deposition, 5/21/97, pp. 292-95.
38. Donald Fowler deposition, 5/21/97, p. 295.
39. Memorandum from Don Fowler, Marvin Rosen, Scott Pastrick, and Richard Sullivan to Harold Ickes, 11/20/95, EOP 027285.
40. White House Office of the Press Secretary, press briefing by the Vice President, 3/3/97, p. 4.
41. Notations on call sheets indicate that a message was left for two individuals on November 28, 1995. DNC Finance Call Sheet, EOP 49257; DNC Finance Call Sheet, EOP 49258.
42. Vice President’s schedule, 12/1/95, EOP 49147-49.
43. Vice President’s schedule, 12/11/95, EOP 57207.
44. Vice President’s schedule, 12/18/95, EOP 57209-11.
45. Vice President’s schedule, 2/2/96, EOP 57212-14.
46. Vice President’s schedule, 2/5/96, EOP 57216-18.
47. Vice President’s schedule, 2/6/96, EOP 57219-21.
48. Vice President’s schedule, 2/9/96, EOP 49143-45.

49. A notation on a call sheet indicates that a message was left for Ms. Carol Pensky on March 13, 1996. DNC Finance Call Sheet, EOP 063253. Phone bill records confirm that a 30 second call was placed to Ms. Pensky's phone number on March 13, 1996. Phone records, EOP 063275-82.
50. Vice President's schedule, 4/26/96, EOP 56527-29.
51. Vice President's schedule, 5/2/96, EOP 57227-28.
52. Despite these instructions to the staff, some of the calls were not made on a credit card; however, the DNC reimbursed the U.S. Treasury for the cost of these calls. Payment Authorization from Moe Vela, Finance Manager, Office of the Vice President, to the DNC, 6/27/97, EOP 063283-84.
53. Summary of Vice President Al Gore's phone call records, Appendix.
54. Exhibit 1065: Memorandum from Harold Ickes to the President and the Vice President, 2/22/96, attaching Memorandum from Bradley Marshall to Harold Ickes, 2/21/96.
55. Exhibit 2381M: Affidavit of Bradley K. Marshall, 10/6/97.
56. Exhibit 1065: Memorandum from Harold Ickes to the President and the Vice President, 2/22/96, attaching Memorandum from Bradley Marshall to Harold Ickes, 2/21/96.
57. Harold Ickes, 10/8/97 Hrg. P. 122.
58. Joseph Sandler, 9/10/97 Hrg. P. 142.
59. Memorandum from Don Fowler, Marvin Rosen, and Richard Sullivan to Harold Ickes, 10/23/95, CGRO 0361.
60. Budget summary, CGRO 0362-64.
61. Memorandum from Harold Ickes to Chairman Dodd and Chairman Fowler, 11/9/95, CGRO 0310-13.
62. Memorandum from Harold Ickes to Chairman Dodd and Chairman Fowler, 11/9/95, CGRO 0310-13.
63. Memorandum from Harold Ickes to the President and the Vice President, 11/20/95, with attachments, CGRO 0191-96.
64. Memorandum from Don Fowler, Marvin Rosen, Scott Pastrick, and Richard Sullivan to Harold Ickes, 11/20/95, EOP 027285.

65. Memorandum from Don Fowler, Marvin Rosen, Scott Pastrick, and Richard Sullivan to Harold Ickes, 11/20/95, EOP 027285.
66. Richard L. Sullivan deposition, 6/4/97, p. 180.
67. Memorandum from Harold Ickes to the President and the Vice President, 11/28/95, SCGA 00342-43.
68. DNC 1995 Budget Analysis, 11/21/95, p. 3, SCGA 00344-46.
69. Memorandum to the President, Vice President, et al., from Harold Ickes, 12/20/95, with attachment, EOP 027959-65
70. Exhibit 1066: Memorandum from Harold Ickes to the President and the Vice President, et al., 6/3/96, with attachment, SCGA 00846-53 (emphasis added).
71. Exhibit 1066: Memorandum from Harold Ickes to the President and the Vice President, et al., 6/3/96, with attachment, SCGA 00846-53 (emphasis added).
72. Peter Sage Knight deposition, 9/17/97, p. 208.
73. Peter Sage Knight deposition, 9/17/97, pp. 214-15 (emphasis added).
74. Richard Jenrette, 10/29/97 Hrg. pp. 12, 28, 71.
75. Richard Jenrette, 10/29/97 Hrg. pp. 21, 71.
76. Exhibit 1652: Letter from Jenrette to Fowler, p. 2, 2/20/96.
77. Exhibit 1652: Letter from Jenrette to Fowler, p. 2, 2/20/96 (emphasis added).
78. DNC Finance Call Sheets, e.g., EOP 049237-91, EOP 063413-17.
79. Summary of Vice President Al Gore's phone call records, Appendix.
80. There is evidence which suggests that only 6 of the 8 individuals who gave a donation that was subsequently deposited, in part, into the DNC's Federal hard money account made their contribution in response to a phone call from Vice President Gore.

John Catsimatidis donated \$10,000 to the DNC that was subsequently deposited in a Federal hard money account two days after records show him receiving a call from the Vice President. However, Thomas Galvin, of the New York Daily News, wrote on August 5, 1997 that "Catsimatidis said he never spoke with Gore -- 'I talk with the No. 1 guy, not the No. 2 guy,' he said." Catsimatidis's statement that he never spoke to the Vice President combined with the fact that the phone records indicate that the Vice President only left a message for Catsimatidis strongly indicates that he did not make the contribution in response to the Vice President's phone

call. N.Y. Daily News, 8/5/97.

Michael Adler received a call from Vice President Gore on December 11, 1995, and contributed \$5000 four days later. However, the contribution was attributed to a December 15, 1995, fundraising event for Jewish contributors.

81. Joseph Sandler, 9/10/97 Hrg. Pp. 15-16. The DNC has acknowledged that “splitting” contributions in this way without the contributor’s permission was not appropriate. Joseph Sandler, 9/10/97 Hrg. P. 87.

82. Peter Sage Knight deposition, 9/17/97, p. 206.

83. Peter Sage Knight deposition, 9/17/97, p. 205.

84. Peter Sage Knight deposition, 9/17/97, pp. 204-05.

85. White House Office of the Press Secretary, Press Briefing by the Vice President, 3/3/97, p. 2.

86. DNC Finance Call Sheet, 2/29/96, DNC 3113672.

87. Minority Summary Appendix.

88. Minority Summary Appendix.

89. Heather Marabeti deposition, 9/3/97, p. 15.

90. David Strauss deposition, 6/30/97, pp. 190-94, 197.

91. Heather Marabeti deposition, 9/3/97, p. 16.

92. Heather Marabeti deposition, 9/3/97, p. 17.

93. Heather Marabeti deposition, 9/3/97, p. 17.

94. White House Office of the Press Secretary, Press Briefing by the Vice President, 3/3/97, p.1.

95. EOP 49171; EOP 53178 - 82; EOP 53199 - 211; DNC 3063789 - 91; DNC 3063793 - 800.

96. David Strauss deposition, 8/14/97, pp. 233-34.

97. Heather Marabeti deposition, 9/3/97, pp. 91-92.

98. Heather Marabeti deposition, 9/3/97, p. 59.

99. Exhibit 2321M: Memorandum from Alan Kranowitz to Rep. Bob Michel, 5/4/88.

100. Memorandum from Mitchell Daniels to Frederick Ryan, Director Presidential Appointments and Scheduling, 9/12/86.
101. Memorandum from A. Morgan Mason to Michael K. Deaver, 9/16/82; Presidential Talking Points: Phone Call to Eagles Meeting September 17, 1982, 10:45 A.M.
102. Memorandum from Gregory Newell to President Reagan, 3/2/81.
103. Memorandum from Mitchell Daniels to Frederick Ryan, 9/12/86.
104. Memorandum from Robert Kruger to Rhett Dawson, 5/6/88.
105. Memorandum from Fred Bush to Joe Gaylord, 5/23/96, R047170-72.
106. Memorandum from Fred Bush to Joe Gaylord, 5/23/96, R047170-72.
107. AP, 9/8/97.
108. Sacramento Bee, 10/5/97.